IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1187 OF 2007
(For Leave to Appeal)
IN
CRIMINAL APPEAL NO. OF 2007
(Against the order of acquittal)

The State of Maharashtra ..Applicant

Vs.

Shrawan Govinda Rangari and anr. ..Respondents

Mr. A.S. Shitole, APP for the applicant.

CORAM: B.H. MARLAPALLE, J.

Date : August 10, 2007.

P.C.:

1. Heard Mr. Shitole, the learned APP. This is an application seeking leave to appeal under Section 378 (3) of Cr.P.C. against the order of acquittal passed by the learned Special Judge at Kolhapur on 16/11/2006 in Special Case No. 15 of 1999. Both the accused have been acquitted from the offences punishable under Sections 7 and 13 (1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988.

2. It was the prosecution case that the complainant Dhondiram Laxman Kumbhar was granted a loan of Rs.34,325/- in the month of February, 1998 for his bricks kiln by the Maharashtra State Zilla Khadi and Village Industries Board at Kolhapur and the first instalment of Rs.20,000/- was released on 22/12/1998, while the remaining instalment of Rs.14,325/- was being released by cheque. The accused had demanded an illegal gratification of Rs.500/- from the complainant and, therefore, the trap was laid on 21/1/1999 and it was contended that accused no.2 had accepted the said gratification amount from the complainant at a tea stall opposite the office and when both the accused went to the office, the money was recovered by the raiding party.

3. The defence of the accused was that the amount was received from the complainant and the same was towards the payment of interest of Rs.437/- that was due to be paid by him before the end of December, 1998 as per the office order.

4. Before the trial court prosecution examined four witnesses, including Shri Kadam (PW 4) and Shri Suresh Patil (PW 1). Their evidence with respect to the post trap panchanama (Exh.36) found to be contradictory and inconsistent. The trial court recorded a finding that a trap officer was an unreliable witness in view of the contradictions regarding the role played by accused nos.1 and 2. At one point of time it was stated that accused no.1 did not have any involvement and he was only accompanying accused no.1, but immediately in the next breath it was stated that accused no.2 was the person who received the money at a tea stall and put the same in his trouser pocket. The trial court, therefore, gave benefit of presumption under Section 20 of the Prevention of Corruption Act, 1988 to the accused and acquitted them.

5. The reasoning set out by the trial court in support of the order of acquittal does not call for reconsideration by this court and hence the leave to appeal is hereby refused and the application is rejected.

(B.H. Marlapalle,J.)